

Assembly Bill No. 1877

CHAPTER 501

An act to add Section 40723 to the Health and Safety Code, relating to air pollution.

[Approved by Governor September 17, 2000. Filed
with Secretary of State September 19, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1877, Maldonado. Air pollution: rules and regulations.

Existing law requires air pollution control districts and air quality management districts to adopt and enforce rules and regulations to achieve and maintain state and federal ambient air quality standards. Existing law also authorizes an air pollution control district or air pollution management district to establish a permit system, requiring a person to obtain a permit before taking any action that may release air contaminants.

This bill would require a district, upon the request of an owner or operator of equipment subject to best available control technology or lowest achievable emission rate requirements, to review the applicable requirements and to determine whether the requirements should be required for a source category, under certain circumstances. The bill would also require the district to revise those requirements to a level achievable by a source or a source category if the district makes specified determinations. By imposing additional duties on local air districts, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 40723 is added to the Health and Safety Code, to read:

40723. (a) It is the intent of the Legislature that, when an air district establishes best available control technology or lowest achievable emission rate requirements based in part on vendor representations, the requirements be achievable for the applicable source category.

(b) Upon the request of any owner or operator of equipment that is subject to best available control technology or lowest achievable emission rate requirements, the district shall review whether the applicable requirements have been achieved and whether the requirements should be required for the source category or source if the owner or operator demonstrates that all of the following conditions are true:

(1) The owner or operator purchased equipment that was subject to or intended by the manufacturer or vendor to satisfy federal, state, or local air district rules or permitting requirements that impose best available control technology or lowest achievable emission rate requirements.

(2) An express warranty was provided to the owner or operator by the manufacturer or vendor that the equipment would achieve the best available control technology or lowest achievable emission rate requirements, or any specified emission rate or standard intended to satisfy those requirements.

(3) The owner or operator made a reasonable effort, for a reasonable period of time, to operate the equipment in accordance with the operating conditions specified by the equipment manufacturer or vendor.

(4) The equipment failed to meet the best available control technology or lowest achievable emission rate requirements covered by the warranty provided by the equipment manufacturer or vendor.

(5) The applicable best available control technology or lowest achievable emission rate requirements were established primarily on the basis of the representations and data provided by the equipment manufacturer or vendor.

(c) (1) If, after conducting a review pursuant to subdivision (b), the district determines that the applicable best available control technology or lowest achievable emission rate requirements are not achievable by a source, the district shall revise those requirements to a level achievable by that source.

(2) If, after conducting a review pursuant to subdivision (b), the district determines that the applicable best available control technology or lowest achievable emission rate requirements are not achievable by a source category, the district shall revise those requirements to a level achievable by that source category.

(d) This section shall be implemented in a manner consistent with applicable federal and state statutes, regulations, and requirements for the establishment of best available control technology and lowest achievable emission rate requirements.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level

of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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